



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

MNDL-S, MNRL, MNDCL

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss, for a monetary Order for unpaid rent, for a monetary Order for damage to the rental unit; to keep all or part of the security deposit, and to recover the fee for filing this Application for Dispute Resolution.

### Issue(s) to be Decided

Is the Landlord entitled to compensation for damage to the rental unit, to compensation for unpaid rent, and to keep all or part of the security deposit?

### Background and Evidence

The Landlord stated that:

- She does not know how to contact the Tenant;
- On February 05, 2021 the Residential Tenancy Branch granted her authority to serve hearing documents to the Tenant via email;
- On March 21, 2021 she served the Application for Dispute Resolution to the Tenant, via email; and
- She did not serve the Tenant with the Application for Dispute Resolution in a timelier manner, as she was "not motivated"; and
- She was not motivated to do so because she does not believe the Tenant will pay compensation due to her.

### Analysis

Rule 3.1 of the Residential Tenancy Branch Rules of Procedure require the Landlord to serve the Tenant with the Application for Dispute Resolution within three days of the Notice of Dispute Resolution Proceeding Package being made available by the

Residential Tenancy Branch. In circumstances such as these, where the Landlord does not know the location of the Tenant, it is not reasonable to expect the Landlord to comply with this timeline.

In these circumstances, on February 05, 2021 the Landlord was granted authority to serve hearing documents to the Tenant via email. I therefore find it reasonable that the Landlord would serve the Tenant with the Application for Dispute Resolution within three days of receiving notice that she could served the hearing documents by email.

On the basis of the undisputed evidence, I find that the Landlord did not serve the Tenant with hearing documents, via email, until March 21, 2011, which was only 8 days before the date of the hearing.

I find that the delay in serving the hearing documents to the Tenant was unreasonable, as it did not provide the Tenant with a reasonable amount of time to respond to the claims being made by the Landlord. I find the Landlord's explanation that she was not motivated to serve the documents in a timelier manner is not a reasonable excuse for the delay.

As the delay in serving the Tenant was unreasonable, I find it would be unfair to the Tenant to proceed with this hearing. The Application for Dispute Resolution is therefore dismissed, with leave to reapply.

### Conclusion

The Application for Dispute Resolution is therefore dismissed, with leave to reapply. The Landlord retains the right to file another Application for Dispute Resolution in regard to these claims.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: March 29, 2021

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Residential Tenancy Branch